

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:
Michael Leo Fitzgibbons Jr.
Denise Michelle Fitzgibbons,

BKY 21-41201
Chapter 13

Debtors.

NOTICE OF HEARING AND MOTION FOR DISMISSAL

TO: All parties in interest pursuant to Local Rule 9013-3.

1. Kyle L. Carlson, Chapter 13 Trustee, moves to dismiss this case.
2. The Court will hold a hearing on this motion at 10:00 a.m. on Thursday, December 8, 2022. The hearing will be held telephonically. Please contact Judge Tanabe's calendar clerk by email at mnbn_tanabe_hearings@mnbn.uscourts.gov or by telephone at 651-848-1051 to obtain the telephonic information.
3. Any response to this motion must be filed and served not later than Friday, December 2, 2022, which is five days before the time set for the hearing (including Saturdays, Sundays and legal holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334. The motion is brought pursuant to 11 U.S.C. § 1307, Bankruptcy Rule 1017, and Local Rule 1017-2. The debtors commenced this case by filing a voluntary Chapter 13 petition on July 2, 2021. This case is pending before this Court.
5. The most recently confirmed plan requires the turnover of bonus income. The trustee has sent a written request for the turnover of \$3,206.00 pursuant to the confirmed plan. As of the date of this motion, the trustee has not received these funds. This is a material default with respect to a term of the confirmed plan and is cause for dismissal under 11 U.S.C. § 1307(c)(6).

WHEREFORE, the Trustee moves the Court for an order dismissing the case and such other relief as may be just and equitable.

Dated: 11-16-22

/e/ Kyle L. Carlson
Kyle L. Carlson
Chapter 12 & 13 Trustee
PO Box 519
Barnesville, MN 56514
218-354-7356

VERIFICATION

I, Kyle L. Carlson, Chapter 13 Trustee, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: 11-16-22

/e/ Kyle L. Carlson
Kyle L. Carlson, Trustee

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UNSWORN DECLARATION FOR PROOF OF SERVICE

The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the attached notice of hearing and motion for dismissal upon all entities named below by first class mail postage prepaid and to any entities who are filing users, by automatic e-mail notification pursuant to the Electronic Case Filing System:

Michael Leo Fitzgibbons Jr.
Denise Michelle Fitzgibbons
17910 226th AV NW
Big Lake, MN 55309

Matrix Financial Services Corporation
25 N Dale St
ST Paul, MN 55102

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: 11-16-22

/e/ Jamie Swenson
Jamie Swenson
Chapter 13 Office